

**REMARKS**

Entry of this Amendment is proper because it narrows the issues on appeal and does not require further searching by the Examiner.

Claims 1-10, 12-13, 15, 20 and 25 are all the claims presently pending in the application. Claims 22-24 have been canceled. Claims 1, 13 and 20 have been amended to more particularly define the invention.

While the claim amendments made herein may help to distinguish the invention over the prior art, Applicant's intention in making the amendments is for the purpose of particularly pointing out the invention, and not for the purpose of distinguishing the invention over the prior art, narrowing the claims, or for any statutory requirements of patentability. Further, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution.

**Claims 1-2, 6-10, 12-13, 22 and 24** stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ausubel (U.S. Patent No. 5,905,975) in view of Wellman (U. S. Patent No. 6,952,682), Hambrecht et al. (U. S. Patent No. 6,629,082), and Macready, et al. (U.S. Publication No. 2002/0016759) (hereinafter "Macready").

**Claims 3-5, 23 and 25** stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ausubel, Wellman, Hambrecht, Macready, and further in view of McAfee, et al. (U.S. Patent No. 6,718,312 B1) (hereinafter "McAfee") (Applicant notes that the Examiner did not include Macready in this rejection on page 10 of the Office Action, but since claim 1 was rejected based on a combination of references which included Macready, then a rejection of claims 3-5 and 23 which depend (directly or indirectly) from claim 1 would likely include Macready.)

**Claim 15** stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ausubel, Wellman, Hambrecht and McAfee, Macready, and further in view of Official Notice (Applicant notes that the Examiner did not include Hambrecht in this rejection on page 14 of the Office Action, but since claim 1 was rejected based on a combination of references which included Hambrecht, then a rejection of claim 15 which depends from claim

1 would likely include Hambrecht. In addition, the Examiner appears to refer to limitation of claim 15 as "AAPA, but Applicant has clearly indicated to the Examiner that this feature is not admitted by Applicant to be prior art).

**Claim 20** stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ausubel, Wellman, Hambrecht McAfee and Macready, and further in view of Official Notice (Applicant again notes that the Examiner appears to refer to limitation of claim 15 as "AAPA, but Applicant has clearly indicated to the Examiner that this feature is not admitted by Applicant to be prior art).

These rejections are respectfully traversed in view of the following discussion.

## **I. THE CLAIMED INVENTION**

An exemplary aspect of the claimed invention (e.g., as recited in claim 1) is directed to a computer implemented method for an auction including establishing an auction system which is accessible via a network, and performs an auction for a plurality of items including a first item and a second item which is different than the first item, and generating by using a processor, a web page including a user interface for entering a plurality of bids in the auction, the user interface displaying: an area for adding the plurality of bids, an area for adding a plurality of conditions associated with the plurality of items including a budget condition, a maximum quantity condition, a minimum quantity condition and a precedence condition and a linear condition, an area for editing the plurality of conditions, a bid table for displaying the plurality of bids, and a plurality of areas for displaying the plurality of conditions. The method also includes receiving a plurality of bids which are added by a bidder using the user interface, the received plurality of bids including a bid for the first item and a bid for the second item, and receiving a plurality of conditions which are added by a bidder using the user interface, the received plurality of conditions including a condition associated with the first item, a condition associated with the second item, and a condition associated with a set of items including the first item and the second item, displaying the received plurality of bids in the bid table and displaying the received plurality of conditions in the plurality of areas for displaying the plurality of conditions on the user interface, generating a plurality of proposals

for the bidder, a proposal in the plurality of proposals including a set of bids in the received plurality of bids that satisfies the received plurality of conditions, formulating a winner determination problem as an integer program, and solving the integer program to determine whether the generated plurality of proposals are included in a winning solution to the integer program, and displaying on an other user interface a table identifying the generated plurality of proposals and indicating whether the generated plurality of proposals are rejected by the bidder, and displaying a status of the received plurality of bids in the bid table based on a result of the solving of the integer program.

Importantly, the received plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition (Application at Figure 2a). These features may enable auction participants to specify a condition that describes or characterizes an item or a combination of items that they wish to win or sell, and allow a bidder to edit such a condition.

## **II. THE ALLEGED PRIOR ART REFERENCES**

### **A. Ausubel, Wellman, Hambrecht and Macready**

The Examiner alleges Ausubel would have been combined with Wellman and Hambrecht to form the invention of claims 1-2, 6-10, 12-13, 22 and 24. Applicant submits, however, that these alleged references would not have been combined and even if combined, the combination would not teach or suggest each and every feature of the claimed invention.

Indeed, Applicant submits that these alleged references are completely unrelated, and no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the alleged references provide no motivation or suggestion to urge the combination as alleged by the Examiner. Indeed, these alleged references clearly do not teach or suggest their combination. Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to

combine the alleged references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

Moreover, neither Ausubel, nor Wellman, nor Hambrecht, nor Macready, nor any alleged combination thereof teaches or suggests "*wherein the received plurality of conditions comprises a first condition and a second condition which is different from the first condition, and the plurality of items comprises plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition*", as recited in claim 1 and similarly recited in claims 13 and 20 (Application at Figure 2a). As noted above, these features may enable auction participants to specify a condition that describes or characterizes an item or a combination of items that they wish to win or sell, and allow a bidder to edit such a condition.

For example, Figure 2a illustrates an exemplary aspect of the claimed invention in which a first set of items including items 1, 2 and 3 are subject to a budget constraint of "120", and a second set of items including items 1, 2, 3 and 4 (i.e., different than the first set of items) is subject to a minimum quantity constraint (i.e., different than the budget constraint) of "2".

Clearly these features are not taught or suggested by Ausubel.

Ausubel simply teaches that Bidder's computer may include "a typical user interface such as a keyboard and display" (Ausubel at col. 6, lines 26-28), and that the user interface is "coupled to a communication interface" (Ausubel at col. 8, lines 2-3), and sending a final message containing the results of the auction (Ausubel at col. 3, lines 59-61).

On page 10 of the Office Action, the Examiner attempts to support his position by stating that "the ordinary practitioner would have seen it as obvious from Ausubel's disclosure that, wherein said first set of items is subject to a first condition and said second set of items is subject to a second condition which is different from said first condition because items which differ from each other are likely to have different value". This is nonsense. There are millions of items for sale to the consumer today which differ greatly from each other but are all priced the same. For example, a gallon of gas and a gallon of milk

may each cost \$3.00. That is, it cannot be said that items which differ from each other are likely to have different value.

That is, nowhere does Ausubel teach or suggest that a received plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition, as in the claimed invention.

Likewise, Wellman does not teach or suggest these features.

In fact, Wellman simply teaches seller input screen 200 and buyer input screen 300. The input screen 300 allows a buyer to input a set of predefined attributes and specify a nominal set of values for the predefined attributes (Wellman at col. 5, lines 42-60). Further, Wellman teaches in col. 13, lines 34-41 that in step 1004 "each matched pair of seller and buyer is notified of the match as well as the matched values of the attributes".

That is, like Ausubel, nowhere does Wellman teach or suggest that a received plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition, as in the claimed invention.

Likewise, Hambrecht does not teach or suggest these features.

Indeed, Hambrecht simply teaches an auction system and that when an auction period opens, qualified investors may submit bids, and that bid sheets on a web page can be accessed only with a password (Hambrecht at col. 10, lines 8-12).

That is, like Ausubel and Wellman, nowhere does Hambrecht teach or suggest that a received plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition, as in the claimed invention.

Likewise, Macready does not teach or suggest this feature of the claimed invention. Indeed, Macready does not even teach or suggest an auction. Instead, Macready simply teaches a level of optimization which ranks trades with suppliers, allegedly allowing a buyer to determine the best alternative (Macready at [0002]).

That is, like Ausubel, Wellman and Hambrecht, nowhere does Macready teach or suggest that a received plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition, as in the claimed invention.

Therefore, Applicant submits that these alleged references would not have been combined and even if combined, the combination would not teach or suggest each and every feature of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

#### **B. McAfee and Official Notice**

The Examiner alleges that Ausubel, Wellman, Hambrecht and Macready would have been further combined with McAfee to form the invention of **claims 3-5 and 23-25**, and further combined with Official Notice to form the invention of **claims 15 and 20**. Applicant submits, however, that these alleged references would not have been combined and even if combined, the combination would not teach or suggest each and every feature of the claimed invention.

Indeed, Applicant submits that these alleged references are completely unrelated, and no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the alleged references provide no motivation or suggestion to urge the combination as alleged by the Examiner. Indeed, these alleged references clearly do not teach or suggest their combination. Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to

combine the alleged references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

Moreover, neither Ausubel, nor Wellman, nor Hambrecht, nor Macready, nor McAfee, nor Official Notice, nor any alleged combination thereof teaches or suggests *"wherein the received plurality of conditions comprises a first condition and a second condition which is different from the first condition, and the plurality of items comprises plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition"*, as recited in claim 1 and similarly recited in claims 13 and 20 (Application at Figure 2a). As noted above, these features may enable auction participants to specify a condition that describes or characterizes an item or a combination of items that they wish to win or sell, and allow a bidder to edit such a condition.

For example, Figure 2a illustrates an exemplary aspect of the claimed invention in which a first set of items including items 1, 2 and 3 are subject to a budget constraint of "120", and a second set of items including items 1, 2, 3 and 4 (i.e., different than the first set of items) is subject to a minimum quantity constraint (i.e., different than the budget constraint) of "2".

Clearly, this feature is not taught or suggested by the cited references.

Indeed, McAfee simply teaches using bid composition restrictions in a "dynamic combinatorial auction". The restrictions include non-additive activity restrictions, subset restrictions and superset restrictions (McAfee at Abstract).

That is, like Ausubel, Wellman, Hambrecht and Macready, nowhere does McAfee teach or suggest that a received plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition, as in the claimed invention.

Likewise, the Official Notice taken by the Examiner simply refers to the features of Claim 15. That is, the Official Notice clearly does not teach or suggest that a received

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plurality of conditions includes a first condition and a second condition which is different from the first condition, and the plurality of items includes plural sets of items including a first set of items subject to the first condition and a second set of items which is different from the first set of items and is subject to the second condition, as in the claimed invention.

Therefore, neither McAfee, nor Official Notice make up for the deficiencies of Ausubel, Wellman, Hambrecht and Macready.

Therefore, Applicant submits that these alleged references would not have been combined and even if combined, the combination would not teach or suggest each and every feature of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

### **III. FORMAL MATTERS AND CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-10, 12-13, 15, 20 and 25, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

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